

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KATHERINE M.K. STEEN,

Plaintiff,

Case No. 11-cv-10588

v.

Paul D. Borman
United States District Judge

STATE FAIR APARTMENTS,
et al.,

Defendants.

OPINION AND ORDER DENYING PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT

This matter is before the Court on Plaintiff's motion for entry of default. (Dkt. No. 8.) Defendant filed a response. (Dkt. No. 9.) The Court has reviewed the parties' briefs and concluded that oral argument would not assist in resolution of the matters presented in Plaintiff's motion and therefore dispenses with oral argument pursuant to E.D. Mich. L.R. 7.1(f).

Federal Rule of Civil Procedure 55(a) provides that: "When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default." Federal Rule of Civil Procedure 12(a)(1)(A) provides that a defendant must file an answer to a complaint "within 21 days after being served with the summons and complaint."

In the instant case, Plaintiff filed her Complaint on February 14, 2011. (Dkt. No. 1.) On that same date, Plaintiff filed an application to proceed in this Court without prepayment of fees (Dkt. No. 2) and an application for appointment of counsel (Dkt. No. 3.) On March 21, 2011 this Court

issued an Order granting Plaintiff's application to proceed *in forma pauperis*, denying her motion for appointment of counsel and directing the United States Marshals to serve her Complaint against the Defendant. (Dkt. No. 4.) On March 22, 2011, the United States Marshals acknowledged receipt of this Court's order directing service of Plaintiff's Complaint and served Defendant on March 23, 2011. (Dkt. No. 5, Minute Entry March 23, 2011.) Defendant filed a timely Answer to the Complaint on April 8, 2011, well within the 21 days allowed under Fed. R. Civ. P. 12. Therefore, Plaintiff has not shown a failure to answer or otherwise defend as required under Fed. R. Civ. P. 55.

Accordingly, the Court DENIES Plaintiff's motion for entry of default (Dkt. No. 8).

IT IS SO ORDERED.



PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: 6-6-11